

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 5914 of 1997****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

- =====
- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

=====

TRADERS PRIVATE LIMITED & 1 - Petitioner(s)
Versus
TUSHARKANT C DAVE & 2 - Respondent(s)

=====

Appearance :

M/S TRIVEDI & GUPTA for Petitioner No(s).: 1,2.
MR AK CLERK for Respondent No(s).: 1,2 - 2.
- for Respondent No(s).: 3.

=====

CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 20/07/2005

ORAL JUDGMENT

.

1. This petition is directed against the order dated 23rd May, 1997 passed by the Labour Court, Rajkot, in Recovery Applications No. 13/92 and 172/92 whereby the said applications were allowed.

2. The short facts of the case are that the respondent no. 1 was working as a Chief Reporter and respondent no. 2 was working as a Foreman with petitioner no. 1. It is the case of the petitioner that since the Palekar Wage Board submitted its recommendations in the year 1980 and in respect of which the Central Government subsequently issued appropriate orders accepting and implementing the same, the petitioner being a newspaper establishment duly implemented the said Palekar Award thereby granting benefits to the Working Journalists as well as other newspaper employees in its establishment. Subsequently, in the year 1985, the Central Government Constituted another Wage Board know as "Bachwat Wage Board".

2.1. It is the case of the petitioner that before the Bachwat Wage Board could submit its recommendations, both respondents on attaining the age of superannuation, were granted retirement benefits as per the pay-scales in Palekar Award.

2.2. Feeling aggrieved by the Notification dated 31st August, 1989 accepting and implementing the Bachwat

recommendations, the petitioner challenged the same in various High Courts and Supreme Court. However, the Supreme Court in the year 1994, modified the recommendations in Bachawat Award. It is the case of the petitioner that though the Supreme Court has issued the directions, the Labour Court allowed the said applications. Hence, this petition.

3. Mr. Naik learned counsel for the petitioner has contended that in view of the decision of the Apex Court in the case of Indian Express Newspapers (P) Ltd., v. Union of India at annexure-G, wherein it is observed that the result of this discrimination is that for the purposes of fixing the wage-scales, the units of the newspaper establishments belonging to Classes VI to IX would not be considered as belonging to the said classes but to the classes which are only two grades above the class to which the said units on the basis of their own revenue properly belong.

4. I have heard learned counsel for the parties. Having perused the materials produced on record it appears that this Court vide order dated 13th November, 1997 stayed the impugned order on following conditions:-

(1) Out of the amount which is directed to be paid to the respondent no. 1 i.e. Rs.59,015=30, he be paid Rs.20,398=69 as per annexure-H (page 110) and respondent no. 2 be paid Rs.7,491==79 as per annexure-H (page 111) instead of Rs.27,594=00 as awarded.

(2) The remaining amount will be deposited by the petitioner in the Labour Court at Rajkot. The Labour Court, Rajkot will invest those amounts in appropriate Fixed Deposit initially for a period of 12 months in a nationalized Bank. The interest on those amount will be paid over to the respondents."

5. Looking to the peculiar facts and circumstances of the case and considering the fact that the amount as directed by this Court vide order dated 13th September, 1997 has been withdrawn by the respondents, I am of the opinion that ends of justice would be met if the petitioners are directed to pay the balance amount which has been kept in the Fixed Deposit in the Nationalized Bank.

6. Accordingly, the petitioners are directed to pay the respondents the amount which has been deposited in the Fixed Deposit of the Nationalized Bank as early as possible. It is clarified that the said amount shall be treated as full and final settlement towards the impugned

order. It is further clarified that the respondents shall not claim any interest for the delayed payment.

6. In above view of the matter, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/